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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

Case No. 2012-434

10 In the Matter of the Accusation Against:

11 **JANICE ANNE MILLER,**
12 **AKA JANICE ANNE MILLER-BROOK,**
13 **AKA JANICE ANNE ENRIQUEZ,**
14 **AKA JANICE ANNE DUNWORTH**
15 **2103 Woodberry Avenue, #B**
16 **Hemet, CA 92544**
17 **Registered Nurse License No. 704016**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

18 **FINDINGS OF FACT**

19 1. On or about February 15, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs, filed Accusation No. 2012-434 against Janice Anne Miller, aka Janice Anne
22 Miller-Brook, aka Janice Anne Enriquez, aka Janice Anne Dunworth (Respondent) before the
23 Board of Registered Nursing. (Accusation attached as Exhibit A.)

24 2. On or about May 29, 2007, the Board of Registered Nursing (Board) issued
25 Registered Nurse License No. 704016 to Respondent. The Registered Nurse License was in full
26 force and effect at all times relevant to the charges brought in Accusation No. 2012-434 and will
27 expire on September 30, 2012, unless renewed.

28 3. On or about February 15, 2012, Respondent was served by Certified and First Class
Mail copies of the Accusation No. 2012-434, Statement to Respondent, blank Notice of Defense,
Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,

1 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
2 Code section 136 and California Code of Regulations, title 16, section 1409.1, is required to be
3 reported and maintained with the Board, which was and is: 2103 Woodberry Avenue, #B, Hemet,
4 CA 92544.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about March 12, 2012, the aforementioned documents that were sent by
9 Certified Mail were returned by the U.S. Postal Service marked "unclaimed."

10 6. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts
13 of the accusation not expressly admitted. Failure to file a notice of defense shall
14 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
15 may nevertheless grant a hearing.

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
17 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
18 434.

19 8. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
23 respondent.

24 9. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the Board's offices regarding the allegations contained in Accusation No. 2012-434, finds
that the charges and allegations in Accusation No. 2012-434, are separately and severally, found
to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$6,938.25 as of March 12, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Janice Anne Miller, aka Janice Anne Miller-Brook, aka Janice Anne Enriquez, aka Janice Anne Dunworth has subjected her Registered Nurse License No. 704016 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.:

a. Respondent is subject to disciplinary action for unprofessional conduct under Business and Professions Code section 2762(a) in that while employed as a registered nurse at Desert Regional Medical Center, Respondent unlawfully obtained and possessed controlled substances.

b. Respondent is subject to disciplinary action for unprofessional conduct under Business and Professions Code section 2762(e) for falsifying or making grossly incorrect, inconsistent and/or unintelligible entries in the hospital records of Desert Regional Medical Center by withdrawing medication, charging the withdrawal to patients who did not receive the drugs or for whom Respondent did not document administration or wastage of the drug.

c. Respondent is subject to disciplinary action for unprofessional conduct under Business and Professions Code section 2761(a) in that Respondent engaged in unprofessional conduct when she stored Morphine not prescribed to her in her personal locker on June 1, 2010 at Desert Regional Medical Center.

1 ORDER

2 IT IS SO ORDERED that Registered Nurse License No. 704016, heretofore issued to
3 Respondent Janice Anne Miller, aka Janice Anne Miller-Brook, aka Janice Anne Enriquez, aka
4 Janice Anne Dunworth, is revoked.

5 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
6 written motion requesting that the Decision be vacated and stating the grounds relied on within
7 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
8 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

9 This Decision shall become effective on August 3, 2012.

10 It is so ORDERED July 5, 2012

11 
12
13 FOR THE BOARD OF REGISTERED NURSING
14 DEPARTMENT OF CONSUMER AFFAIRS

15 31421649.DOC
16 DOJ Matter ID:SD2011801159

17 Attachment:
18 Exhibit A: Accusation 2012-434
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Exhibit A

Accusation 2012-434

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Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **202-434**

13 **JANICE ANNE MILLER**
14 **AKA JANICE ANNE MILLER-BROOK**
AKA JANICE ANNE ENRIQUEZ
15 **AKA JANICE ANNE DUNWORTH**
2103 Woodberry Avenue, B
16 Hemet, CA 92544

A C C U S A T I O N

17 **Registered Nurse License No. RN 704016**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
23 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
24 of Consumer Affairs.

25 2. On or about May 29, 2007, the Board of Registered Nursing issued Registered Nurse
26 License Number RN 704016 to Janice Anne Miller, aka Janice Anne Miller-Brook, aka
27 Janice Anne Enriquez, aka Janice Anne Dunworth (Respondent). The Registered Nurse License
28

1 was in full force and effect at all times relevant to the charges brought herein and will expire on
2 September 30, 2012, unless renewed.

3 JURISDICTION

4 3. This Accusation is brought before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code (Code) unless otherwise indicated.

7 4. Section 2750 of the Code states:

8 "Every certificate holder or licensee, including licensees holding temporary licenses, or
9 licensees holding licenses placed in an inactive status, may be disciplined as provided in this
10 article. As used in this article, "license" includes certificate, registration, or any other
11 authorization to engage in practice regulated by this chapter. The proceedings under this article
12 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of
13 Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted
14 therein."

15 5. Section 2764 of the Code states:

16 "The lapsing or suspension of a license by operation of law or by order or decision of the
17 board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the
18 board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding
19 against such license, or to render a decision suspending or revoking such license."

20 6. Section 2811 of the Code states in pertinent part:

21 "....

22 "(b) Each such license not renewed in accordance with this section shall expire but may
23 within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee
24 and penalty fee required by this chapter and upon submission of such proof of the applicant's
25 qualifications as may be required by the board, except that during such eight-year period no
26 examination shall be required as a condition for the reinstatement of any such expired license
27 which has lapsed solely by reason of nonpayment of the renewal fee. After the expiration of such
28 eight-year period the board may require as a condition of reinstatement that the applicant pass

1 such examination as it deems necessary to determine his present fitness to resume the practice of
2 professional nursing.

3 "...."

4 STATUTORY PROVISIONS

5 7. Section 2761 of the Code states:

6 "The board may take disciplinary action against a certified or licensed nurse or deny an
7 application for a certificate or license for any of the following:

8 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

9 "...."

10 8. Section 2762 of the Code states:

11 "In addition to other acts constituting unprofessional conduct within the meaning of this
12 chapter it is unprofessional conduct for a person licensed under this chapter to do any of the
13 following:

14 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
15 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
16 administer to another, any controlled substance as defined in Division 10 (commencing with
17 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
18 defined in Section 4022.

19 "...."

20 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
21 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
22 section."

23 9. California Health and Safety Code Section 11173 states:

24 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt
25 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
26 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

27 "...."

1 COST RECOVERY

2 10. Section 125.3 of the Code provide that the Board may request the administrative law
3 judge to direct a licentiate found to have committed a violation or violations of the licensing act to
4 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

5 DRUGS/DEFINITIONS

6 11. Morphine is a Schedule II controlled substance as designated by Health and Safety
7 Code section 11055, subdivision (b)(1)(L), and is a dangerous drug pursuant to Business and
8 Professions Code section 4022.

9 12. Vicodin a brand name for acetaminophen and hydrocodone bitartrate, is a
10 Schedule III controlled substance as designated by Health and Safety Code section 11056, and is
11 a dangerous drug pursuant to Business and Professions Code section 4022.

12 13. Phenergan, a brand name for promethazine, is a dangerous drug pursuant to Business
13 and Professions Code section 4022. Phenergan is used to relieve the symptoms of allergic
14 reactions, to relax and sedate patients before and after surgery, and to prevent and control nausea.

15 14. Pyxis is a trade name for the automated single-unit dose medication dispensing
16 system that records information such as patient name, physician orders, date and time medication
17 was withdrawn, and the name of the licensed individual who withdrew and administered the
18 medication. Each user is given a "user ID" code to operate the control panel. The user is required
19 to enter a second code "PIN" number, similar to an ATM machine, to gain access to the
20 medications. Sometimes only portions of the withdrawn narcotics are given to the patient. The
21 portions not given to the patient are referred to as wastage. This waste must be witnessed by
22 another authorized user and is also recorded by the Pyxis machine.

23 FACTUAL ALLEGATIONS

24 15. Respondent was employed as a registered nurse in the Labor & Delivery/Post-Partum
25 Department at Desert Regional Medical Center (DRMC) in Palm Springs, California, from May
26 2007 to June 2010. The Director of Nursing (DON) initiated an investigation following
27 complaints from patients about not receiving their medication from Respondent. The
28 investigation revealed the following discrepancies attributed to Respondent:

16. Patient No. 26026583: On May 31, 2010, at 01:00 hours, Respondent removed from the Pyxis machine, 10 mg of morphine for this patient and failed to document administration or wastage of the medication.

17. Patient No. 026038083: On June 1, 2010, at 19:41 hours, Respondent removed 10 mg of morphine from the Pyxis machine for this patient. Respondent documented administration of 2 mg of morphine at 19:40 hours on the patient's Medication Administration Record (MAR). Respondent failed to document administration or wastage for the remaining 8 mg. When confronted about this discrepancy, Respondent admitted that she failed to properly record the wasting of 8 mg of morphine, and that the remaining 8 mg of morphine was in her locker. A search of Respondent's locker yielded a 5 mg vial of morphine, one empty vial of morphine, one unopened 25 mg vial of Phenergan, and a needle from a syringe.

18. Following the discovery of the medication in Respondent's locker, Respondent was placed on administrative leave pending investigation, and on June 10, 2010, Respondent resigned from DRMC in lieu of termination.

19. On or about April 27, 2011, an investigator from the Division of Investigation interviewed Respondent about the discrepancy on June 1, 2010. Respondent admitted to the investigator that she "made a very big mistake" by putting the medication in her locker.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Obtain Controlled Substances Unlawfully)

20. Respondent is subject to disciplinary action for unprofessional conduct under section 2762(a) in that while employed as a registered nurse at DRMC, Respondent unlawfully obtained and possessed controlled substances, as is more particularly set forth in paragraphs 15 through 19 above, which are incorporated herein as though set forth in full.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Falsify or Make Grossly Incorrect or Inconsistent Entries)

21. Respondent is subject to disciplinary action for unprofessional conduct under Code section 2762(e) for falsifying or making grossly incorrect, inconsistent and/or unintelligible entries in the hospital records of DRMC by withdrawing medication, charging the withdrawal to

1 patients who did not receive the drugs or for whom Respondent did not document administration
2 or wastage of the drug as is more particularly set forth in paragraphs 15 through 19 above, which
3 are incorporated herein as though set forth in full.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(General Unprofessional Conduct)**

6 22. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
7 in that Respondent engaged in unprofessional conduct when she stored morphine not prescribed
8 to her, in her personal locker on June 1, 2010, as is detailed in paragraphs 15-19, above, which are
9 incorporated herein by reference.

10 **PRAYER**

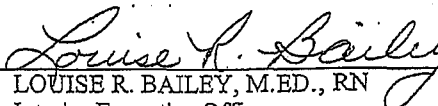
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

13 1. Revoking or suspending Registered Nurse License Number RN 704016, issued to
14 Janice Anne Miller, aka Janice Anne Miller-Brook, aka Janice Anne Enriquez, aka Janice Anne
15 Dunworth;

16 2. Ordering Janice Anne Miller to pay the Board of Registered Nursing the reasonable
17 costs of the investigation and enforcement of this case, pursuant to Business and Professions
18 Code section 1253;

19 3. Taking such other and further action as deemed necessary and proper.

20
21 DATED: February 15, 2012


LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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